

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: **ICC-01/14-01/18**

Date: **9 February 2026**

TRIAL CHAMBER V

Before: Judge Beti Hohler, Presiding Judge
Judge Joanna Korner
Judge Keebong Paek

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *THE PROSECUTOR v.*
*ALFRED ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Public

**Public Redacted Version of the 'Yekatom Defence Response to Request for
Extension of Time: Preliminary Witness List', 25 August 2020, ICC-01/14-01/18-
629-Conf**

Source: Defence for Mr. Alfred Rombhot Yekatom

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Reparations Section

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1. Counsel representing Mr. Alfred Rombhot Yekatom (“Defence” and “Mr. Yekatom”, respectively) respectfully respond to the *Prosecution’s Request pursuant to Regulation 35 to Vary the Time Limit for Disclosure of Evidence Related to Trial Witnesses Listed on the Preliminary Witness List*.¹ (“the Request”) The Defence does not oppose a variance of the time limit if measures are taken to mitigate the prejudice to its trial preparation.

RELEVANT PROCEDURAL HISTORY

2. On 11 November 2018, this Chamber issued its *Warrant of Arrest for Alfred Yekatom*.² Mr. Yekatom made his initial appearance before this Court on 23 November 2018. His hearing on the confirmation of charges was set for 30 April 2019.³
3. On 20 February 2019, over Mr. Yekatom’s objection,⁴ the Chamber joined the case of Mr. Yekatom with that of Patrice-Edouard Ngaïssona, who had been recently arrested and transferred to the Court. Both Mr. Yekatom and Mr. Ngaïssona requested that the date of 30 April 2019 for the confirmation hearing be maintained.⁵ The Prosecution, on the other hand, asked that the confirmation hearing be postponed to 18 June 2019.⁶ The Chamber granted the Prosecution’s request.⁷
4. On 1 May 2019, the Prosecution requested yet another postponement of the confirmation hearing until September 2019⁸ over the objection of Mr. Yekatom, who contended that a postponement would result in unreasonable delay.⁹ The

¹ [ICC-01/14-01/18-628-Conf-Red](#).

² [ICC-01/14-01/18-1-Red](#).

³ [ICC-01/14-01/18-T-1-ENG](#).

⁴ [ICC-01/14-01/18-82](#).

⁵ [ICC-01/14-01/18-82](#), para. 6; [ICC-01/14-01/18-118](#), para. 8.

⁶ [ICC-01/14-01/18-76](#), para. 11.

⁷ [ICC-01/14-01/18-87](#). Leave to appeal this decision was denied on 21 March 2019 ([ICC-01/14-01/18-154](#)).

⁸ [ICC-01/14-01/18-186-Red2](#).

⁹ [ICC-01/14-01/18-194-Red](#), paras. 28-31.

Chamber again granted the Prosecution's request and postponed the hearing until 19 September 2019.¹⁰

5. The hearing began on 19 September 2019, ten months after Mr. Yekatom's arrival at the Court.¹¹ It concluded on 11 October 2019.¹²
6. On 11 December 2019, the Chamber issued its *Decision on the Confirmation of Charges Against Alfred Yekatom and Patrice-Edouard Ngaïssona* in which it confirmed some of the charges. The Chamber suspended, *proprio motu*, the time limit for seeking leave to appeal the decision until a French translation was provided.¹³
7. It took more than two months for a French translation to be prepared. Then, at the very last possible moment, on 2 March 2020, the Prosecution, which works in both languages, sought reconsideration or leave to appeal the confirmation decision.¹⁴ The Defence opposed reconsideration and leave to appeal.¹⁵
8. On 11 March 2020, the Pre-Trial Chamber denied reconsideration and leave to appeal and ordered that the Registry transmit the case file to the Presidency.¹⁶
9. On 16 March 2020, the Presidency assigned the case to Trial Chamber V.¹⁷
10. On 31 March 2020, the Prosecution requested the Pre-Trial Chamber to amend the charges by adding a charge of rape against Ngaïssona and gave notice that it would seek to add rape and sexual slavery charges against Yekatom at some time in the future.¹⁸ The Ngaïssona defence opposed the proposed

¹⁰ [ICC-01/14-01/18-199](#).

¹¹ [ICC-01/14-01/18-T-004-Red2-ENG](#). The [Chamber's Practice Manual](#) provides that "the typical target date for the confirmation hearing should be around four to six months from the first appearance" (p. 3).

¹² [ICC-01/14-01/18-T-011-Red-ENG](#).

¹³ [ICC-01/14-01/18-403-Red](#), para. 240.

¹⁴ [ICC-01/14-01/18-437](#).

¹⁵ [ICC-01/14-01/18-443](#).

¹⁶ [ICC-01/14-01/18-447](#).

¹⁷ [ICC-01/14-01/18-451](#).

¹⁸ [ICC-01/14-01/18-468-Red](#).

amendment.¹⁹ On 14 May 2020, the Pre-Trial Chamber rejected the Prosecution's motion to amend the charges as to Mr. Ngaïssona.²⁰ Leave to appeal was subsequently sought,²¹ opposed,²² and denied.²³

11. On the same day, the Prosecution filed a motion to amend the charges against Mr. Yekatom, proposing to add rape and sexual slavery charges based on the testimony of Witnesses [REDACTED].²⁴ Mr. Yekatom opposed this motion on 27 May 2020.²⁵ The Pre-Trial Chamber denied the motion on 1 June 2020.²⁶ It found that the disruption caused to the Defence, the delay to the commencement of the trial and the prolongation of the accused's pre-trial custody inherent to the addition of the charges underlying the Request would not be warranted in light of, *inter alia*, the Prosecution's lack of diligence in securing the evidence of [REDACTED].²⁷
12. Leave to appeal was subsequently sought,²⁸ opposed,²⁹ and denied.³⁰
13. On 22 May 2020, the Trial Chamber ordered the Prosecution to file a Preliminary Witness List by 15 June 2020 stressing that "evidence related to witnesses listed on the Preliminary Witness List must be affected immediately."³¹ The Prosecution filed its list on 15 June as ordered.³²
14. The Trial Chamber held a status conference on 9 July 2020. During that conference, the Presiding Judge said:

¹⁹ [ICC-01/14-01/18-477-Red.](#)

²⁰ [ICC-01/14-01/18-517](#), para. 5.

²¹ [ICC-01/14-01/18-524.](#)

²² [ICC-01/14-01/18-533.](#)

²³ [ICC-01/14-01/18-560.](#)

²⁴ [ICC-01/14-01/18-518-Conf.](#)

²⁵ [ICC-01/14-01/18-532-Red-Corr.](#)

²⁶ [ICC-01/14-01/18-538.](#)

²⁷ *Id.*, paras. 18-19.

²⁸ [ICC-01/14-01/18-545.](#)

²⁹ [ICC-01/14-01/18-549-Red.](#)

³⁰ [ICC-01/14-01/18-560.](#)

³¹ [ICC-01/14-01/18-528](#), para. 5.

³² [ICC-01/14-01/18-553.](#)

the participants are expected to cooperate with each other wherever possible and to resolve matters *inter partes* before seizing the Chamber with a request...The Chamber considers this approach to be the most efficient. If a resolution has not been tried *inter partes* beforehand, the Chamber may dismiss the relief sought *in limine*.³³

15. On 16 July 2020, the Trial Chamber issued its *Decision Setting the Commencement Date of the Trial*, scheduling the trial to begin on 9 February 2021 and ordering the Prosecution, *inter alia*, to disclose the evidence related to witnesses listed on the Preliminary Witness List immediately, and at the latest, by 31 August 2020.³⁴
16. The Prosecution filed the *Request* on 21 August 2020.³⁵ A confidential version was notified to the Defence on 24 August 2020 and on the same day, by e-mail, the Trial Chamber ordered the parties to respond by 28 August 2020.

ARGUMENT

A. Witnesses P-2582, P-2620, and P-2671

17. The Prosecution characterises its inability to disclose the identities and statements of P-2582, P-2620, and P-2671 as a COVID-19 related problem of the Victims and Witnesses Section ("VWS"). However, as the Pre-Trial Chamber found when the Prosecution sought to amend the charges by adding allegations supported by the evidence of P-2582 and P-2620, the delay is due primarily to a lack of diligence by the Prosecution in timely obtaining the witnesses' evidence.³⁶
18. Nevertheless, the Defence believes that the Trial Chamber can accommodate the Prosecution without significantly prejudicing the Defence by granting a short extension of time to finalise the protective measures with conditions. The

³³ [ICC-01/14-01/18-T-012-ENG](#), p. 6.

³⁴ [ICC-01/14-01/18-589](#).

³⁵ [ICC-01/14-01/18-628-Conf-Red](#).

³⁶ [ICC-01/14-01/18-538](#), para. 18.

Chamber is requested to order (1) disclosure of the witnesses' statements of P-2582, P-2620, and P-2671 redacted to remove information that would reveal the witness' identity;³⁷ (2) VWS to report to the Trial Chamber weekly on the efforts it has made to put the protective measures in place; and (3) the Prosecution to call the three witnesses near the end of its case.

19. In the *Kenyatta* case, the Trial Chamber held that the Prosecution should not continue investigating post-confirmation for the purpose of collecting evidence which it could reasonably have been expected to have collected prior to confirmation. Among the remedies could be exclusion the evidence so obtained, or a postponement of the trial.³⁸
20. While it is premature to seek any of those remedies in this case, the Chamber is requested to be vigilant to ensure that the Defence is not prejudiced by the Prosecution's lack of diligence with respect to Witnesses P-2582, P-2620, and P-2671. The above conditions strike a proper balance between the needs of the Prosecution and the rights of the accused.

B. Witness P-0306

21. The evidence of Witness P-0306 appears to relate principally to Mr. Ngaïssona. In order not to duplicate arguments before the Chamber, the Yekatom Defence defers to, and supports, the position on this issue to be taken by the Ngaïssona Defence.
22. Should delayed disclosure be granted, the Defence requests that Witness P-0306 be called at the beginning of the Prosecution's case. This will avoid the prejudice that will flow from the Defence's inability to confront other witnesses who testify before P-0306's identity and statements are disclosed,

³⁷ The witnesses' testimonies have already been summarised in [ICC-01/14-01/18-518-Conf](#), paras. 18-19.

³⁸ *Prosecutor v Kenyatta*, Decision on Defence Application Pursuant to Article 64(4) and Related Requests, 26 April 2013, [ICC-01/09-02/11-728](#), para. 121.

with inconsistent information or to corroborate exculpatory evidence from P-0306 with those Prosecution witnesses.

23. This remedial measure was ordered in the *Al Hassan* case, and is a sound practice.³⁹

C. Sango transcripts of Witnesses P-0965, P-0458, P-2233, and P-2602

24. The Defence does not oppose the Prosecution's request for an extension of time to disclose the redacted Sango transcripts of Witnesses P-0965, P-0458, P-2233, and P-2602, provided that they are disclosed on a rolling basis as soon as each witness transcript has been completed. In his order of 29 May 2020, the Single Judge had carefully underlined that the Prosecution should make every effort to meet the disclosure deadlines set by the Chamber in relation to the original Sango portions of these interviews.⁴⁰

D. Transcripts of P-1839, P-0889 and P-0992

25. The Defence does not oppose the Prosecution's request to vary the 31 August 2020 time limit to disclose the transcriptions of P-1839 so long as the audio of her interview is disclosed by 31 August 2020.
26. The transcript of her interview with the Prosecution seems to relate to a meeting held in [REDACTED] 2020⁴¹. The Prosecution never mentioned any delay in meeting its disclosure deadline in relation to P-1839 during the status conference of 9 July 2020.
27. P-1839 is an important witness against Mr. Yekatom testifying on several charges and requiring time and resources of investigation and preparation.

³⁹ *Prosecutor v Al Hassan*, Decision on the Prosecution Request for Delayed Disclosure of the Identities of Witnesses P-0538, P-0542, P-0553, P-0570, P-0574, P-0603, 27 May 2020, [ICC-01/12-01/18-741-Red2](#), paras. 57-58.

⁴⁰ [ICC-01/14-01/18-535](#), para. 12.

⁴¹ Interview with OTP on and/or around 4-6 March 2020. See 18 annexes disclosed bearing ERN CAR-OTP-2125-0716 to CAR-OTP-2125-0747.

Once it obtains her interview, the Defence will need to go over its investigation and preparation to make the necessary amendments.⁴² Her earlier interview transcripts of 2017 reveal that there are hardly any redactions and many were lifted. There is no reason to believe that there would be many redactions in her 2020 interview transcript. Given the late stage of the proceedings and given that the Prosecution has had her audio recordings since [REDACTED] 2020, it should not be burdensome for the Prosecution to provide the Defence with a copy of the audio recordings of her 2020 interview. This would be a reasonable accommodation that would mitigate the prejudice to the Defence while providing time for transcription of her interview.

28. As for witness P-0992, the Defence notes that this witness was the subject of two different interviews with the Prosecution and that the Prosecution is currently completing its second interview of P-0992.⁴³ The Prosecution should provide the Defence with a copy of the transcripts of witness P-0992's first interview by the 31 August 2020 deadline since it was conducted more than a year ago,⁴⁴ while completing the transcription of the second interview. This would be a reasonable accommodation that would mitigate the prejudice to the Defence.
29. As for P-0889, the available disclosure indicates that this witness mainly relates to Mr. Ngaïssona. In order not to duplicate arguments before the Chamber, the Yekatom Defence defers to, and supports, the position on this issue to be taken by the Ngaïssona Defence.

⁴² [ICC-01/14-01/18-628-Conf-Red](#), para. 16.

⁴³ [ICC-01/14-01/18-628-Conf-Red](#), para. 16.

⁴⁴ Interview with OTP on and/or around 14 May 2019. See annex CAR-OTP-2110-0164 signed by P-0992 with the date "14/05/2019" handwritten.

E. Seleka investigation redactions

30. The Defence does not oppose the Prosecution's request to delay disclosure of the statements of those witnesses for whom it has requested redactions based upon its ongoing Seleka investigation. The Defence is confident that the Chamber will make an expeditious decision on the pending motion. The Defence expresses its appreciation to the Chamber and the Single Judge for ruling so promptly on motions and requests in this case.

CONFIDENTIALITY

31. This response is filed confidentially to conform to the *Request*. The Trial Chamber is requested to issue a public redacted decision and order the parties to file public redacted versions of their pleadings.

CONCLUSION

32. It is respectfully requested that the *Request* be granted with the further orders requested above to mitigate the prejudice to the Defence.

RESPECTFULLY SUBMITTED ON THIS 9th DAY OF FEBRUARY 2026



Me Mylène Dimitri
Lead Counsel for Mr. Yekatom

The Hague, the Netherlands